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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:	)	
	)	Before the Examiner:
Han H. Nee	)	Elizabeth Evans Mulvaney
	)	
Application No.: 10/763,697	)	
	)	Group Art Unit:
Filed: January 23, 2004	)	1774
	)	
METAL ALLOYS FOR THE REFLECTIVE OR THE SEMI-REFLECTIVE LAYER OF AN OPTICAL STORAGE MEDIUM	)	

FIRST SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to the duty of disclosure embodied in 37 C. F. R. § 1.56, Applicant wishes to bring to the attention of the Examiner the following.

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on:

Date of Deposit: August 16, 2004

Signature of Registered Representative: John J. Emanuele

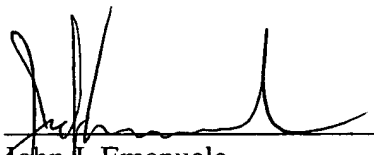
This Statement is being submitted after the mailing of an Office Action on the merits, but before the mailing of any Final Office Action. The fee of $180 as required under 37 C.F.R.§ 1.17(p) is enclosed. Therefore, it is believed that no additional fees are due. However, the Commissioner is authorized to charge any fee due as set forth in § 1.17(p) and to charge any additional fees which may

be due with this filing to Deposit Account No. 23-3030, but not to include any payment of issue fees.

Enclosed is a brief updated summary of on-going litigation involving patents related to the instant application also enclosed is a copy of a Decision and Order marked 03-CV-276-A and 03-CV-280-A received from The United States District Court Western District of New York on or about August 11, 2004. This paper is provided to comply with MPEP 2001.06.

The filing of this Information Disclosure Statement shall not be construed as an admission that the information cited is, or is considered to be, material to patentability as defined in § 1.56(b).

Respectfully submitted:



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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:	)	
	)	Before the Examiner:
Han H. Nee	)	Not Yet Assigned
	)	
Application No.: 10/763,697	)	
	)	Group Art Unit
Filed: January 23, 2004	)	
	)	
METAL ALLOYS FOR THE REFLECTIVE OR THE SEMI-REFLECTIVE LAYER OF AN OPTICAL STORAGE MEDIUM	)	

UPDATED BRIEF SUMMARY OF LITIGATION INVOLVING RELATED PATENTS AND APPLICATIONS.

THIS PAPER IS BEING FILED AS AN INFORMATION DISCLOSURE STATEMENT IN ORDER TO COMPLY WITH THE APPLICANT'S DUTY TO DISCLOSE UNDER MPEP § 2001.06.

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

The Applicant previously brought to the attention of the Office that the parent patents of the aforementioned continuation patent application are currently involved in litigation in the United States District Court for Western District of New York, Buffalo Division, Civil Docket No. 1:30-cv-00276-RJA-VEB. Though the present application is not a reissue application and though the pending claims of the present application are not themselves the subjects of a lawsuit, the instant Information Disclosure Statement is being offered in response to the suggestion contained in MPEP §2001.06 that the existence of litigation and issues raised therein should be brought to the attention of the patent examiner. A copy of District Court's recent Decision and Order regarding the issues the opposing party raised in the District Court is enclosed for the

examiner's review and referenced throughout the following summary. It is believed that all issues were decided in the Applicant's favor and against the opposing party.

In short review, the patents currently in litigation are U.S. Patent Nos. 6,007,889; 6,286,811; 6,451,402; and 6,544,616. And among the opposing party's defenses, the opposing party has asserted that claims 10 and 35 of U.S. Patent No. 6,286,811 and claim 73 of U.S. Patent No. 6,544,616 are invalid over the prior art. As best as the applicant can presently understand, the opposing party positions are that:

--claim 10 of '811 is allegedly invalid under 35 USC §§ 102 or 103 over the combination of EP 0594516 to Hatwar combined with European Patent Application No. EP 0737966 to Kaneko, U.S. Patent No. 5,640,382 to Florczak, U.S. Patent No. 4,450,553 to Holster, or European Patent Application EP 0720159 to Moriaya;

--claim 35 of '811 is allegedly invalid under 35 USC §§ 102 or 103 over the combination of Japanese Unexamined Patent Application 07-105575 or Japanese Unexamined Patent Application 10-011799 combined with European Patent Application No. EP 0737966 to Kaneko, U.S. Patent No. 5,640,382 to Florczak, U.S. Patent No. 4,450,553 to Holster, or European Patent Application EP 0720159 to Moriaya, and

--claim 73 of '616 is allegedly invalid under 35 USC §§ 102 or 103 over Japanese publication 09-212915 to Miyashita or U.S. Patent No. 4,404,656 to Cornet combined with European Patent Application No. EP 0737966 to Kaneko, U.S. Patent No. 5,640,382 to Florczak, U.S. Patent No. 4,450,553 to Holster, or European Patent Application EP 0720159 to Moriaya.

Copies of all these references have been submitted to the patent examiner.

The opposing party has also asserted that the Applicant is guilty of inequitable conduct in the above-named litigation. In this regard, the opposing party has:

--alleged that the Applicant had a duty to translate into English, all of the Japanese references the Applicant submitted to the patent office as prior art. (Applicant submitted copies of the readily available, Official English language abstracts of these references.);

--alleged that the Applicant intentionally withheld the English language abstract for Japanese Unexamined Patent Publication 02192046 from the patent office (an English language translation of the entire document was submitted to the patent office the day after it was received from the opposing party);

--alleged that the Applicant intentionally withheld U.S. Patent No. 4,404,656 to Cornet from the patent office (a copy of the reference was submitted to the patent office within days after the omission was discovered), and

--alleged that the Applicant has intentionally not informed the patent office that the above-identified patents were in litigation.

UPDATED PORTION OF SUMMARY

The district court did not grant the opposing party's motion to enjoin the patent owner from alerting the opposing party's customer base that at least some of the products offered for sale by the opposing party may be infringing the Applicant's issued patents and pending patent applications. See Decision and Order 03-CV-276-A and 03-CV-280 (enclosed).

The opposing party cited specific pieces of related art for example those recited above to argue that the Patents in litigation should be held invalid in view of the related art. Some of these pieces of related art are not of record in the patents being litigated. To the best of the Applicant's knowledge all of these pieces of related art have already been disclosed to the Office in the present Application by the Applicant in an Information Disclosure Statement dated June 21, 2004.

In response to the Opposition's allegation that the Applicant's patents and pending Applications in litigation were obvious over these and other references the Court held that:

"In Sum, upon considering the differences between Target's [Applicant's] patent claims and the prior art, the Court finds that claims at issue, as a whole, would not have been obvious to a person having ordinary skill in the art." Id. pg. 35-36 (emphasis added).

In response to the Opposition's allegations of Inequitable Conduct leveled against the Applicant (Target Technology) the Court held that:

"Similarly, the Court finds that Williams [Opposition] has failed to show a likelihood of success on its claim of inequitable conduct." Id. pg. 38 "Because evidence of an intent to defraud is lacking, Williams [Opposition] has failed to establish a likelihood of success on its inequitable conduct claim." Id. pg. 41.

Should the Office require any additional information concerning the aforementioned litigation or any other information relating to the prosecution of the pending application the Office may at the Office's convenience contact the undersigned either telephonically or by mail in the next Official Action with the inquiry.

Respectfully submitted:

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